THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 36330 of 1998

Oral order:

Assailing the order dated 17.06.1997, passed by the Labour Court, Guntur, in M.P. No. 50 of 1992, the petitioner-APSRTC filed the present writ petition.

The 1st respondent, while working with the petitioner-APSRTC as Driver, was removed from service. Assailing the said removal order, he raised an industrial dispute in I.D. No. 256 of 1987, and the Labour Court, vide award dated 15.12.1989, set aside the order of removal and directed the petitioner-APSRTC to appoint the 1st respondent as Driver afresh, within one month from the date of the award. The award was published in the Gazette notification in G.O. Rt. No. 168, dated 15.12.1989, and the same was also affixed on the notice board of the Labour Court on 15.12.1989. Though the 1st respondent approached the petitioner-APSRTC seeking to implement the award and give him appointment order, the petitioner-APSRTC did not issue any appointment order. Hence, the 1st respondent filed the present M.P. claiming that he is entitled to receive salary at the rate of Rs.1,642-50 ps. from 15.03.1989 to till the date of filing of the M.P., i.e. 20.02.1992, amounting to Rs.57,781/-. The petitioner-APSRTC contested the said M.P. *inter alia* contending that the 1st respondent never approached them, and that he approached the Divisional manager on 27.04.1992, and despite issuance of appointment order, he did not report to duty, and a such, he is not entitled to claim any amount, much less for the period claimed. However, the Labour Court considering the evidence on record, held that the petitioner-APSRTC failed to establish that the 1st respondent intentionally avoided to receive the appointment order, and holding so allowed the M.P. Hence, the petitioner-APSRTC filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC and perused the award of the Labour Court impugned in the writ petition.

The certiorari jurisdiction of this Court under Article 226 of the

Constitution of India, to interfere with the orders/awards of the subordinate Courts/Tribunals, is well defined, and is mainly exercised for correcting gross errors of jurisdiction. In **Surya Dev Rai v. Ram Chander Rai**[1], the apex Court defined the certiorari jurisdiction of this Court under Article 226 of the Constitution of India, as under:

> Certiorari, under Article 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or
> (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

Keeping in view the scope of certiorari jurisdiction of this Court, the award of the Labour Court, may be examined.

As can be seen from the award, though the petitioner-APSRTC claimed that the 1st respondent despite being issued appointment order, refused to join duty, the fact remains, the Labour Court upon appreciation of evidence on record, and as evident from the counter filed by the petitioner, wherein it was mentioned that a registered letter dated 14.04.1992 was sent to the 1st respondent asking him to report in the Office of the Divisional Manager, Vijayawada along with valid driving licence, and thereafter, as per the directions of the Regional Manager, the petitioner was issued appointment order dated 09.06.1992, appointing him as fresh Driver and posting him to Jaggaiahpet Depot, which was acknowledged by him on 09.06.1992.

Since the appointment order in terms of the award, was served on the 1st respondent appointing him as Driver afresh and posting him to Jaggaiahpet Depot, only on 09.06.1992, the 1st respondent joined duty in the month of July, 1992, and in fact, the 1st respondent, who examined himself as P.W.1, in his evidence admitted that he joined duty in the month of July, 1992. Considering these aspects, the Labour Court came to the conclusion that the petitioner-APSRTC did not issue appointment order to the 1st respondent till he filed the present M.P., and as the petitioner-APSRTC did not implement the directions, as given by it in its award, held that the 1st respondent shall be deemed to be in service after lapse of one month from the date of publication of award in the Gazette notification, and as such, he is entitled to wages at the rate of Rs.1,642.50 ps. from

15.03.1989 to 20.02.1992, and no exception can be taken thereto, and more so when the petitioner-APSRTC failed to establish by placing any evidence that the 1st respondent despite receiving the alleged appointment order dated 11.05.1989, had intentionally avoided to receive the same and join duty.

The petitioner-APSRTC having failed to point out any jurisdictional error in the impugned order, no interference is called for therewith.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Dated: 3rd October, 2007.
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[1] AIR 2003 SC 3044 =2003 AIR SCW 3872